

ORDINANCE No. 1453  
of the  
TOWN of HIGHLAND, INDIANA

**AN ORDINANCE PRESCRIBING BUSINESS LICENSE REGISTRATION AND  
ESTABLISHING A LICENSE FEE AND REGISTRATION FEE**

WHEREAS, I.C. 36-1-3-4 et sequitur, provides that a unit of town government possesses all powers granted it by statute and all other powers necessary or desirable in the conduct of its affairs, even though not granted by statute; and

WHEREAS, I.C. 36-1-3-8(5) provides a unit of town government enabling authority to impose a license fee reasonably related to the administrative cost of exercising a regulatory power;

WHEREAS, I.C. 36-7-2-2 provides that a unit may plan for and regulate the use, improvement, and maintenance of real property and the location, condition, and maintenance of structures and other improvements;

WHEREAS, I.C. 36-7-2-3 provides that a unit may inspect any structure or other improvement at any reasonable time;

WHEREAS, I.C. 36-7-2-4 provides that a unit may regulate methods of, and use of materials in repair, alteration, and construction of structures and other improvements;

WHEREAS, I.C. 36-9-2-7 provides that municipalities may regulate the use of public ways; and,

WHEREAS, I.C. 36-8-2-4 provides that a unit may regulate conduct, or use or possession of property, that might endanger the public health, safety, or welfare;

WHEREAS, I.C. 36-8-2-9 A unit may regulate public gatherings;

WHEREAS, The Town of Highland, is a Municipal Government which may pass and codify ordinances for the operation of the government, all pursuant to IC 36-1-4 and IC 36-1-5;

WHEREAS, The Town Council believes this action to be necessary and desirable for the conduct of the affairs of the Town, and in the public interest, consistent with powers previously described as well as the powers granted under IC 36-1-3 et seq.;

WHEREAS, Business registration and licensing is necessary to maintain current data and contact information on business owners to identify potential on-site hazards, security concerns, enforce the property maintenance code, comply with business recycling requirements of the Lake County Solid Waste District, identify market gaps for recruiting new businesses and prevent operation of business in violation of law; and

WHEREAS, The Town Council has determined the municipal code requires amendment in order require business licensing and to recover costs incurred by the Town for

administration, processing, record management and enforcement associated with business registration and licensing.

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY** the Town Council of the Town of Highland, Lake County, Indiana, as follows:

**Section 1.** Sections 110.01 through 110.16 and Section 110.99 of Chapter 110 of the Highland Code of Ordinances are hereby amended by repealing existing language and adopting new language for sections of Chapter 110 as follows:

## **BUSINESS LICENSES**

### **§ 110.01 PERSONS SUBJECT TO BUSINESS LICENSES**

Registration and a business license are required for all persons doing business within the town including ~~schools, churches and other not-for-profit organizations~~, those who have home occupations and those who lease or rent real estate.

### **§ 110.02 APPLICATIONS; CONTENTS**

Applications for a business license required by this chapter shall be made in writing to the Clerk-Treasurer in the absence of provisions to the contrary. Each application shall state the name of the applicant, the name and telephone number of key holders, the types of hazardous or flammable materials and their normal locations within the building, the location of the business, the time covered, the fee paid and such additional information as may be needed by the town officials.

(a) Foreign Corporations. Any foreign corporation doing business in the town shall furnish a copy of its certificate of authority from the secretary of state's office, in addition to all other documentation required by this chapter, prior to the issuance of a business license by the town.

(b) Solid Waste Management Plan. Each business located within the boundaries of the town, upon being licensed or obtaining any renewal thereof, shall provide as part of its submission a plan describing how its solid waste will be managed, including reduction, reuse and recycling steps taken to reduce its waste stream. If a business has no convenient way to recycle, a statement to that effect shall be sufficient in the application.

### **§ 110.03 FORMS**

Forms for registration for a business licenses required by this subchapter and application thereof, shall be prepared and kept on file by the Clerk-Treasurer or designee. Registration profile information shall be accessible to senior management staff of the town.

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### **§ 110.04 FEES; WHEN DUE; DISPOSITION**

In the absence of any provision to the contrary, all fees and charges for business licenses shall be paid in advance at the time application is made therefore to the Clerk-Treasurer. All fees shall become a part of the General Fund.

**§ 110.05 BUSINESS LICENSE FEE and REGISTRATION FEE**

(a) Any person maintaining, operating or conducting any business, business activity, occupation or commercial establishment, or doing business, or engaging in any service or occupation within the town shall pay an annual fee prescribed by this section.

(b) In the event there is no specific fee set for the engagement of a particular business or service, then an annual license fee for business or service not otherwise classified shall be \$25.00. If paid after February 28th of the calendar year, the annual license fee shall be \$50.00.

(c) Exempt businesses as described in Section §110.08 of this code shall pay a registration fee of \$25.00. If paid after February 28th of the calendar year, the annual license fee shall be \$50.00.

(d) If such business or service being conducted in the town consists of displays for trade shows, craft shows or short term events, and said events are for a period of no more than six consecutive days, and are not held more than three times in any one fiscal year, then in such event, said business or service shall not be required to pay a business license fee as required herein.

**§ 110.06 TERMINATION OF LICENSE**

(a) All business licenses terminate on the last day of the calendar year, where no provision to the contrary is made. When the license terminates, an occupancy permit is automatically revoked.

(b) ~~At least two months prior to the effective date of this ordinance (January 1, 2008)~~ or Upon expiration of an annual business license or registration, the Clerk-Treasurer or designee shall mail notice of the license fee; provided that a failure to send out such notice, or the failure of a business to receive it, shall not excuse a business from a failure to secure a license or renewal thereof, nor shall it be a defense in an action for operation without a license.

**§ 110.07 CHANGE OF LOCATION**

The location of any business or occupation licensed or registered may be changed, provided prior notice thereof is given to the Clerk-Treasurer and the new location meets all of the requirements for the issuance of the original license.

**§ 110.08 REGISTRATION OF EXEMPT BUSINESSES**

(A) All businesses, business activities, occupations or commercial establishments which are exempt from licensing by the town because they are licensed and regulated by state or national regulations, ~~which preempt added licensing or registration, or businesses that are public or private schools, churches, mosques, synagogues, or similar place of worship and other not-for-profit organizations shall not be required to be licensed to operate.~~

(B) Exempt Business Registration. All businesses, business activities, occupations or commercial establishments which are exempt from licensing by the town because they are licensed and regulated by state or national regulations, or

that are public or private schools, churches, mosques, synagogues, or similar place of worship and other not-for-profit organizations, nevertheless shall be required to register with the town on forms on file with the Clerk-Treasurer's Office. Such forms shall require information as to the location, nature and extent of such business, business activity, occupation or commercial establishment and shall constitute a registration only. Each business, business activity, occupation or commercial establishment at the time of registration shall pay an annual registration fee in accordance with the fee schedule set out in § 110.05.

**§ 110.09 REPEALED**

**§ 110.10 INVESTIGATIONS AND INSPECTIONS**

(a) Upon the receipt of an application for a license or permit where an ordinance of the town necessitates an inspection or investigation before the issuance of such permit or license, the Clerk-Treasurer or designee shall refer such application to the proper office of the town for making such inspection or investigation within 48 hours of the time of such receipt. The officer charged with the duty of making an inspection or investigation shall make a report thereon, favorable or otherwise, within ten business days after receiving the application or a copy thereof.

(b) An application for a business license in connection with the care and handling of food, the spread of disease or for the protection of health shall be accompanied by all necessary county and state licenses or permits before it will be considered by the town.

(c) The Building Commissioner and the Fire Chief shall make or cause to be made inspections of buildings or other structures for compliance with the property maintenance code, the building, fire codes and other life safety codes of the town; except it is not the intent of this article to prescribe such inspections with every annual business license renewal.

(d) All other investigations, except where otherwise provided, shall be made by the ~~Town Manager~~ **Building Commissioner, Code Enforcement Officer or any officer authorized to enforce municipal ordinances or designee.**

(e) Whenever inspection is provided for or required by ordinance in connection with premises used for or in connection with the operation of a business or occupation for which a license, registration or permit is required, or is reasonably necessary thereto to secure compliance with any ordinance provision or to detect violations thereof, it shall be the duty of the person in charge of the premises to be inspected to admit thereto, for the purpose of making the inspection, any officer or employee of the town who is authorized or directed to make such inspection at any reasonable time that admission is requested.

(f) ~~Whenever any analysis of any commodity or material is reasonably necessary to secure conformance with any ordinance provision or to detect violations thereof, it shall be the duty of the licensee or permittee whose business is governed by the provision to give any authorized officer or employee of the town requesting such samples sufficient samples of such material or commodity for such analysis upon request.~~

(g) In addition to any other penalty which may be provided, the President of the Town Council may revoke the license or permit of any licensee or permittee in the town who refuses to permit any such officer or employee who is authorized to make such inspection or take such sample to make the inspection or take any adequate sample of such commodity, or who interferes with such officer or employee while in the performance of his duty in making such inspection; provided that no license, registration or permit shall be revoked for such cause unless written demand is made upon the licensee, registrant or permittee or person in charge of the premises, in the name of the town, stating that such inspection or sample is desired, at the time it is sought to make the inspection or to obtain the sample.

#### **§ 110.11 BOND AND INSURANCE**

Whenever the ~~Town Manager or designee~~ **Building Commissioner or Code Enforcement Officer** receives an application for a license or permit which, upon investigation, is a business in which the citizens of the town are or may be exposed to personal injury or property damage, the ~~Town Manager or designee~~ **Building Commissioner or Code Enforcement Officer** shall require that the applicant provide a bond and evidence of insurance. The amount and form of the bond and insurance shall be approved by the ~~Town Manager Clerk-Treasurer~~, and no license or permit shall be issued until the bond and insurance so required has been approved.

#### **§ 110.12 COMPLIANCE WITH ORDINANCES**

No license shall be issued for the conduct of any business and no permit shall be issued for any thing or act if the premises and building to be used for the purpose do not fully comply with the ordinances of the town.

#### **§ 110.13 ISSUANCE FOR UNLAWFUL ACTS PROHIBITED**

No license or permit shall be issued for the conduct of any business or performance of any act which is in violation or which would involve a violation of any ordinance of the town or law, rule or regulation of the state or of the United States.

#### **§ 110.14 NUISANCES**

No business, whether or not a license, registration or permit has been issued therefor, shall be so conducted or operated as to be a nuisance.

#### **§ 110.15 POSTING**

It shall be the duty of any person conducting a business or activity in the town for which a license, registration or permit has been issued to keep his license or permit posted in a prominent place on the premises used for such business or activity at all times.

#### **§ 110.16 SUSPENSION OR REVOCATION**

(a) Grounds. Any license, registration or permit required by town ordinances may be suspended or revoked by the President of the Town Council for any one or more of the following reasons:

- (1) Violation of an ordinance of the town.
- (2) Violation of any law, rule or regulation of the state or of the United States, or any department or division thereof.
- (3) Misrepresentation or falsification of statements in the application for a license, registration or permit.

(b) Procedure.

- (1) Notice to correct violation. If the ~~Town Manager or designee~~ **Building Commissioner, Code Enforcement Officer or any officer authorized to enforce municipal ordinances** has reason to believe that a violation as described in subsection (a) of this section by the licensee, registrant or permittee can be corrected, the ~~Town Manager or designee~~ **Building Commissioner, Code Enforcement Officer or any officer authorized to enforce municipal ordinances** shall serve written notice upon the licensee, registrant or permittee setting forth the violation, and the licensee, registrant or permittee shall have not less than five and not more than 30 business days, as set by the ~~Town Manager or designee~~ **Building Commissioner or the Code Enforcement Officer** to correct the violation and to submit evidence of the correction.
- (2) Authority of President of Council. The President of the Town Council may suspend or revoke any license or permit for one or more of the reasons set forth in subsection (a) of this section.
- (3) *Hearing.* Before the suspension or revocation of any license, registration or permit, the President of the Town Council or designee shall give written notice to the licensee, registrant or permittee of the violation and set forth therein a date for hearing for the purpose of suspending or revoking such license, registration or permit. Such hearing for suspension or revocation shall be held not less than ten business days after the personal service of or the mailing of the written notice; however, if the President of the Town Council believes that immediate and irreparable harm or damage to person or property may occur by reason of the violation, the hearing may be had after 24 hours following the personal service of or the mailing of the written notice.
- (4) Effect of revocation or suspension. The suspension or revocation shall be supplementary to any other proceedings provided by ordinance or law and shall not stay any other enforcement provisions of this subchapter.
- (5) Authority to deny upon reapplication. The President of the Town Council may deny a license or permit to any applicant who has had a license or permit issued by the town revoked.

#### § 110.99 PENALTIES

(A) Except as otherwise provided, any person, entity or organization who shall violate any provisions of this chapter by failing to obtain a business license, operating without a business license or exempt business registration, may be fined in the amount set forth in the designated schedule as a payable offense subject to admission before the Violations Clerk of the Ordinance Violation Bureau in the amount set forth in the Admissions Clerk Payable Offenses Schedule in § 131.06. Each day of such unlawful activity as is prohibited shall be deemed a separate offense.

(B) If such persons, entity or organization shall violate any provisions of this chapter, and there is a failure to satisfy the civil violation as set forth in Chapter 131 of this code, then such violations shall be construed as justiciable offenses and shall be subject to a fine of not less than \$100 per violation, nor more than \$2,500. Each day of such unlawful activity as is prohibited shall be deemed a separate offense.

(C) In addition to satisfying any fine lawfully imposed under this chapter, the violator may also be made to pay the proper fee in order to comply with the provisions regarding operating with a proper business license.

Section 2. All provisions of ordinances in conflict with the provisions hereof are hereby repealed with such amendments hereby enacted pursuant to §10.17 of the Highland Municipal Code.

Section 3. This ordinance shall become effective and be in full force and effect from and after its adoption, passage and publication in the manner prescribed by law and until its subsequent amendment or repeal by proper ordinance.

Introduced and Filed on the 8th day of March 2010. Consideration on same day or at same meeting of introduction was not sought, pursuant to IC 36-5-2-9.8.

DULY ORDAINED and ADOPTED this 22nd day of March 2010 by the Town Council of the Town of Highland, Lake County, Indiana, having been passed by a vote of 4 in favor 0 opposed.

TOWN COUNCIL of the TOWN of  
HIGHLAND, INDIANA



Mark A. Herak, President (IC 36-5-2-10)

ATTEST:



Michael W. Griffin, IAMC/MMC/CPFA  
Clerk-Treasurer (IC 33-16-4-1; IC 36-5-6-5)

